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Commonwealth of Virginia Statewide Transition Plan for Compliance with the Home and Community Based Services (HCBS) Final Regulation's Settings Requirements

INTRODUCTION

In January 2014, the Centers for Medicare & Medicaid Services (CMS) issued a final rule for home and community based services (HCBS) that requires states to review and evaluate home and community based (HCB) settings, including residential and non-residential settings. The HCBS final regulation, published January 16, 2014 and available at <http://www.gpo.gov/fdsys/pkg/FR-2014-01-16/pdf/2014-00487.pdf>, requires states to prepare and submit a Statewide Transition Plan. **CMS asks that statewide transition plans specifically address only the setting requirements of the final rule for home and community based services (The Rule). Therefore, this Statewide Transition Plan is specific to the analysis and recommendations regarding the settings for home and community based services.**

According to The Rule (**section 441.530**), the following characteristics must be present in order for a setting to be considered HCB:

- It is integrated in and supports full access to the greater community;
- It is selected by the individual from among a variety of setting options;
- It optimizes autonomy and independence in making life choices;
- It facilitates individual choice in selecting both services and service providers; and,
- It ensures individuals rights of privacy, dignity, respect, and freedom from coercion and restraint.

In a provider owned or operated residential setting, an individual has access to a private residential unit or dwelling where they are afforded the same protections under local landlord tenant laws (if applicable), or at offered some written agreement with provisions related to evictions and appeals processes comparable to the local jurisdiction's applicable landlord-tenant laws. Furthermore, individuals living in provider owned or operated residential settings must:

- Have access to privacy in their sleeping units;
- Have entrances lockable by the individual, with keys provided to appropriate staff as needed;
- Have a choice in selecting their roommate(s), if they share a room;
- Have the freedom to decorate and furnish their sleeping and/or dwelling unit;
- Have the ability to control their daily schedules and activities and have access to food at any time;
- Be able to have visitors at any time; and,
- Be physically accessible to the individual.

Any modifications made to any of the above criteria must be the result of identified specific needs discovered through an independent assessment, and then documented and justified in a person-centered service plan.

The Statewide Transition Plan is considered the vehicle through which states determine their compliance with The Rule's requirements for HCB settings. When improvements are needed, the plan

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should describe to CMS the actions the state will take to assure full and ongoing compliance with the new settings requirements.

The Rule gives states time to "transition" to meet settings requirements. States have up to 5 years from the time The Rule took effect in March of 2014 to come into compliance. Virginia's transition plan expects to reach full compliance by March 2019. During the period covered by the transition plan, Virginia can continue to use Medicaid to fund all settings, including those that do not yet meet The Rule's settings requirements.

OVERVIEW

Virginia has six (6) 1915(c) waiver programs. The Department of Medical Assistance Services (DMAS) is the state Medicaid authority for all HCBS 1915(c) waivers and is also the operating agency for the following three HCBS 1915(c) waivers:

- **Technology Assisted Waiver (Tech):** The Tech waiver is a home and community-based waiver whose purpose is to provide services and supports in the community rather than in a hospital, nursing facility, or other medical long-term care facility. Individuals receiving Tech waiver services are dependent upon technological support and require substantial, ongoing skilled nursing care. There is no waiting list for this program.
- **Elderly or Disabled with Consumer Direction Waiver (EDCD):** The EDCD waiver is a home and community based waiver whose purpose is to provide services and supports in the community rather than in a nursing facility. Individuals receiving EDCD waiver services meet the nursing facility level of care criteria and have chosen to receive community-based services rather than being placed in a nursing facility. There is no waiting list for this program.
- **Alzheimer's Assisted Living Waiver (AAL):** The AAL waiver is a home and community based waiver whose purpose is to provide services and supports in the community rather than a nursing facility. Individuals receiving AAL waiver services meet the nursing facility level of care, receive an Auxiliary Grant, Virginia's SSI Supplement, and reside in an approved Assisted Living Facility that is licensed by the Virginia Department of Social Services. There is no waiting list for this program.

The Department of Behavioral Health and Developmental Services (DBHDS) is the operating agency for three 1915(c) waivers: the Intellectual Disability Waiver, the Individuals and Family Developmental Disabilities Supports Waiver and the Day Support Waiver.

On January 26, 2012, Virginia and the U.S. Department of Justice (DOJ) reached a settlement agreement to resolve DOJ's investigation of Virginia's training centers and community programs. The investigation concerned the Commonwealth's compliance with the Americans with Disabilities Act and the U.S. Supreme Court *Olmstead* ruling with respect to individuals with intellectual and developmental disabilities. The *Olmstead* Decision requires that individuals be served in the most integrated settings appropriate to meet their needs consistent with their choice. Every six months, the settlement's

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Independent Reviewer assesses Virginia's compliance with 122 provisions of the agreement, and the results of the review are posted on the DBHDS website.

Due to the requirements of the agreement, Virginia is currently undergoing a number of system and program changes. A cornerstone principle of the transformation is the separation of housing from services, such that individuals and families have increased opportunity to make service provision and housing decisions that are separate and distinct. Individuals will have increased choices about where they live and where they may obtain services. It is not possible to effectively present a transition plan for meeting the HCBS settings requirements without referencing and acknowledging the activities currently underway in response to the DOJ Settlement Agreement. Steps are being taken to comply with the agreement concurrent with the implementation of this transition plan in response to CMS' Rule.

During the course of the next four years the three 1915 (c) waivers described below will be amended to provide increased flexibility, service choices and options to better meet individual needs and represent the integrated lifestyle choices individuals and families desire. The re-designed waiver services will be fully operational and in full compliance with the settings requirements by March 2019. **This transition plan does not and cannot reflect the significant work being undertaken to transform the system per the 122 provisions of the Settlement Agreement.**

DBHDS is the operating agency for the following three HCBS 1915(c) waivers:

- **Intellectual Disability Waiver (ID):** The waiver provides services and supports in the community rather than in an Intermediate Care Facility for Individuals with Intellectual and/or Developmental Disabilities (ICF/IID). There is an active waiting list for this program.
- **Individual and Family Developmental Disabilities Supports Waiver (DD):** The waiver provides services and supports in the community rather than in an Intermediate Care Facility for Individuals with Intellectual and/or Developmental Disabilities (ICF/IID). There is currently an active waiting list for this program.
- **Day Support Waiver (DS):** The waiver provides services and supports for individuals who are on the ID waiver waiting list. Individuals may remain on the waiting list for the ID waiver while being served by the Day Support waiver and transfer to the ID waiver once a slot becomes available.

Each of these waiver programs will be amended to improve and enhance service options, choice, and quality to best meet the individualized needs and person centered goals of those within the waivers.

This Transition Plan is not intended to be a report of current and future efforts associated with compliance with DOJ and systems re-design and transformation. This transition plan is addressing the assessment of compliance with the settings requirements of the HCBS final rule and actions that need to be taken to ensure full compliance by March of 2019. Detailed information on system re-designs and transformation can be found on the DBHDS website; <http://www.dbhds.virginia.gov/individuals-and-families/developmental-disabilities/doj-settlement-agreement>.

For each 1915(c) waiver, contained in the appendices of this Statewide Transition Plan is the following:

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- The state's assessment of the extent to which its regulations, standards, policies, licensing requirements and other provider requirements ensure settings comport with the setting requirements; and, if needed,
- A description of the remedial actions the state proposes to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

A Statewide Transition Plan Timeline can be found in Appendix G. The timeline provides an overview of each waiver's compliance status, and, where needed, milestone toward meeting requirements by March 2019.

ASSESSMENT OF COMPLIANCE

A. 1915(c) Waivers Operated by DMAS

DMAS reviewed the regulations, standards, policies, licensing requirements, other provider requirements and service definitions for each HCBS waiver program operationalized by DMAS to determine whether each service/setting complies with the new HCBS settings requirements. DMAS concluded that services provided in an individual's home (a residence owned or leased by the individual or the individual's family, i.e. not a provider owned or operated setting), comply with the HCBS settings requirements. For this reason, the following DMAS administered HCBS waiver programs and/or services fully comply with the settings requirements:

- Technology Assisted Waiver: All services comply (Appendix A)
- EDCD Waiver: Consumer and Agency Directed Personal Care Services comply (Appendix B)

The following DMAS administered HCBS waiver programs and/or services require transition actions for compliance:

- EDCD Waiver: Adult Day Health Care Services (ADHC) requires action to assure full and on-going compliance (Appendix B)
- AAL Waiver: Requires action to assure full and on-going compliance (Appendix C)

B. 1915(c) Waivers Operated by DBHDS

DMAS, the state Medicaid authority, and DBHDS, the operating agency for the ID, DD and Day Support waivers, have worked together to review the regulations, standards, policies, licensing requirements, other provider requirements and service definitions for each HCB waiver program operationalized by DBHDS to determine whether each service/setting complies with the new HCBS settings requirements. DBHDS and DMAS have concluded that services provided in an individual's home (a residence owned or leased by the individual or the individual's family, i.e., not a provider owned or operated setting) comply with the HCBS settings requirements. For this reason, the following DBHDS administered HCBS waiver programs and/or services comply:

- DD Waiver: In-home residential services comply (Appendix D)

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- ID Waiver: In-home residential services comply (Appendix E)

The following DBHDS administered HCBS waiver programs and/or services require transition actions for compliance:

- DD Waiver: Prevocational Services, Day Support and Supported Employment Services require action to ensure full and ongoing compliance (Appendix D)
- ID Waiver: Congregate Residential services, Day Support services require action to ensure full and on-going compliance (Appendix E).
- Day Support Waiver: Day Support services, Prevocational services and Supported Employment services require action to ensure full and ongoing compliance (Appendix F).

COMPLIANCE AND MONITORING

All remediation actions will be completed no later than March, 2019. Progress on completion of this Statewide Transition Plan will be monitored at least every six months and a status update will be posted with opportunity for public input.

The multi-agency, provider and stakeholder compliance & monitoring team will be convened by June 2015 to:

- Develop cross agency subject matter expertise on the final rule and the transition plan;
- Ensure a collective understanding and consistent interpretation of requirements, transition plan milestones and guidance documents;
- Advise and support the education and training of professionals, providers and stakeholders;
- Ensure a cohesive and broadly represented approach toward compliance, monitoring and capacity issues; and,
- Ensure successful achievement of desired outcomes and full compliance with the HCBS final rule settings requirements by March of 2019.

The development of a compliance & monitoring team represents the state's intention to oversee, support and monitor full compliance with the settings requirements of the HCBS final rule. The team will be empowered to:

- Provide technical assistance on the final rule including documentation for exceptions;
- Review and comment on developed materials and resources;
- Provide recommendations and assist with the development of solutions and implementation of strategies aimed at achieving desired outcomes;
- Oversee development and implementation of a communications strategy for providers, individuals and families regarding needed changes; and,
- Report to state leadership on the status of compliance.

The compliance & monitoring team will include representatives from multiple state agencies. The team will include individuals from different divisions within agencies, stakeholders, and providers. The team will ensure due diligence for the multiple and complex aspects of achieving a seamless and aligned approach across waivers and populations. It is expected that the full team will meet twice a year with smaller workgroup activities associated with specific waivers and areas of expertise between team meetings.

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PUBLIC INPUT:

This Statewide Transition Plan is open for public comment for 30 days, February 1, 2015 – March 4, 2015. The public input process has been designed to allow individuals receiving waiver services and their families, individuals likely to receive services, providers, stakeholders, advocacy groups and other organizations an opportunity to provide input and recommendations into the plan. All public comments and dates of public notice for the Statewide Transition Plan will be retained on record and available for review.

Virginia will seek public comment through the DMAS website, DBHDS "My Life, My Community" webpage, and other specific state agency websites, articles in newsletters disseminated by advocacy groups and trade organizations, electronic newsletters, list serves, social media and a printed legal notice placed in a large Virginia newspaper carried in libraries throughout Virginia.

An email address and fax number have been established and disseminated to individuals, family members, and other advocates familiar with various provider settings so they may submit comments on the draft transition plan and share their knowledge of settings and compliance with the Final Rule. In particular, those that DMAS and DBHDS can assist with needed technical assistance.

The appendices include details on the ways DMAS and DBHDS solicited comments and engaged stakeholders.

RECORDS RETENTION

Pursuant to the requirements of 42 C.F.R. § 434.6 (a) and 42 C.F.R § 434.38, all books, documents, papers, electronic files and other materials in the creation and implementation of this Statewide Transition Plan will be retained by DMAS and DBHDS for the prescribed number of years.

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Appendix A: Technology Assisted Waiver

APPENDIX A: TECHNOLOGY ASSISTED WAIVER

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Appendix A: Technology Assisted Waiver

INTRODUCTION

On January 16, 2014 the Centers for Medicare & Medicaid Services (CMS) issued a final rule for home and community based services (HCBS) that requires states to assess home and community based settings to determine compliance with the settings requirements of the final rule. The Virginia Department of Medical Assistance Services (DMAS), the state Medicaid authority, is the operating agency for the Technology Assisted (Tech) waiver. DMAS has worked to develop this Transition Plan as a means of outlining current status of compliance with Centers for Medicare and Medicaid Services (CMS) Final Rule.

Virginia's Technology Assisted waiver assessment of settings and needed actions includes the following information:

- A. Assessment of Characteristics of Tech waiver settings across the state
- B. Assessment of Tech waiver regulations and related policies
- C. Assessment activities chart
- D. Remediation Actions

ASSESSMENT OF SETTINGS & NEEDED ACTIONS

A. Assessment of Characteristics of Tech waiver settings across the state

DMAS reviewed the characteristics of settings in which individuals receiving Tech waiver services reside. The state has determined that all participants reside in settings that are fully compliant with the settings requirement of the HCBS final rule. Individuals receiving Tech waiver services reside in their own home or family home. Services are not provided in a provider owned or operated setting and the settings fully comport with CMS requirements. Each setting:

- Is integrated in and supports full access to the greater community;
- Is selected by the individual;
- Ensures an individual's right to privacy, dignity, respect and freedom from coercion and restraint;
- Optimizes individual initiative, autonomy and independence; and
- Facilitates individuals' choice regarding services and supports and who provides them.

B. Assessment of Tech waiver regulations and related policies

The assessment process included a review of Technology Assisted waiver regulations and related policies and procedures. The assessment concluded that current regulations are supportive of the HCBS final rule. Regulations require:

- Freedom of choice of service provider;
- Reasonable accommodations of individuals needs and preferences;
- Assistance with community access as needed and desired;
- The provider to protect and promote the rights of each individual; and,
- Services and supplies be provided in the same quality and in the same mode of delivery as are provided to the general public.

C. A chart detailing assessment activities, progress and status begins on the next page.

D. Remediation actions are not deemed necessary for the Tech waiver. However, a Tech waiver representative will participate on the Compliance and Monitoring team and assure ongoing compliance.

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Appendix A: Technology Assisted Waiver

Task(s)	Description of Tasks	Assessment Methods	End Date	Responsible Parties	Progress / Status
Site Landscape Assessment	Evaluate the types of services being provided to individuals through the Tech waiver, and in what types of settings throughout the state. Also evaluate the types of providers rendering services through the waiver.	Consult with Tech Waiver Staff	7/14/14	Tech Waiver Staff, Waiver Operations Staff	Tech waiver staff identified that services are offered for individual waiver participants in their own or family home (e.g. there is no residential component to waiver). Provider type has been identified as Home Care agencies that provide Private Duty Nursing.
Setting Requirement Compliance Assessment	Assess sites statewide providing HCBS services to individuals in Tech waiver as compliant, partially compliant, or non-compliant.	Consult with Tech Waiver Staff, Review of QMR reports, Review of Tech Waiver Staff visit checklists.	9/15/14	Tech Waiver Staff, Waiver Operations Staff	The settings assessment concluded that services provided through this waiver are provided (mostly) within the individual's home. Home Care agency staff do provide support to individuals in the community for activities such as shopping and recreation. Tech Waiver staff assess the home environments to ensure that the home is conducive to the health and well-being of individuals receiving services.
Setting Characteristics Assessment	Assess sites statewide providing HCBS to individuals in the Tech waiver as either Home and Community Based, Institutional, or Presumed Institutional	Consult with Tech Waiver Staff	9/15/14	Tech Waiver Staff, Waiver Operations Staff	Services are provided within the home. Tech waiver services are not provided in a provider owned or operated setting, a segregated institutional setting or a setting with the characteristics of an institutional setting. The settings are already Home and Community Based.
Waiver Regulations and Policy Assessment	Review and crosswalk waiver regulations, licensing of providers for the waiver, provider manuals and policy with the settings requirements	Review DMAS and other agency regs. governing the waiver (licensing of providers for the waiver).	11/5/2014	Tech waiver Staff, Waiver Operations Staff	The assessment of settings finds that services are provided in settings that fully comply with the settings requirement and waiver regulations and policies are currently in support of the settings requirements.

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APPENDIX B: ELDERLY OR DISABLED WITH CONSUMER DIRECTION WAIVER

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Appendix B: Elderly or Disabled with Consumer Direction Waiver

INTRODUCTION

On January 16, 2014 the Centers for Medicare & Medicaid Services (CMS) issued a final rule for home and community based services (HCBS) that requires states to assess home and community based settings to determine compliance with the settings requirements of the final rule. The Virginia Department of Medical Assistance Services (DMAS), the state Medicaid authority, is the operating agency for the Elderly or Disabled with Consumer Direction (EDCD) waiver. DMAS has worked to develop this Transition Plan as a means of outlining current status of compliance with Centers for Medicare and Medicaid Services (CMS) Final Rule.

Virginia's EDCD waiver assessment of settings and needed actions includes the following information:

- A. Assessment of characteristics of EDCD waiver settings across the state
- B. Assessment of EDCD waiver and licensure regulations and related policies
- C. Public/Stakeholder engagement
- D. Assessment activities chart
- E. Remediation actions

ASSESSMENT OF SETTINGS

A. Assessment of characteristics of EDCD waiver settings across the state

DMAS reviewed the characteristics of settings in which EDCD waiver personal care services are provided. The state has determined that this service is provided in settings that are fully compliant with the settings requirements of the HCBS final rule. Individuals receiving EDCD waiver services reside in their own home or family home. Every individual receiving EDCD waiver personal care services is assessed in their home environment. Services are not provided in a provider owned or operated setting and the state has concluded that the settings fully comport with the CMS settings requirements. Each setting:

- Is integrated in and supports full access to the greater community;
- Is selected by the individual;
- Ensures an individual's right to privacy, dignity, respect and freedom from coercion and restraint;
- Optimizes individual initiative, autonomy and independence; and
- Facilitates individual's choice regarding services and supports and who provides them.

DMAS reviewed the characteristics of settings in which individuals receive EDCD waiver Adult Day Health Care (ADHC) services. The state identified ADHC service settings by site to include address, number of EDCD waiver participants served and contact information. The state has determined that the majority of ADHC services are provided in settings that fully comply with the settings requirements of the HCBS final rule. The state has identified 50 unique providers of ADHC services and approximately 56 settings. Of the 56 settings, 53 are located in a setting that is fully compliant with The Rule. Each setting:

- Is integrated in and supports full access to the greater community;
- Is selected by the individual;
- Ensures an individual's right to privacy, dignity, respect and freedom from coercion and restraint;

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Appendix B: Elderly or Disabled with Consumer Direction Waiver

- Optimizes individual initiative, autonomy and independence; and
- Facilitates individuals' choice regarding services and supports and who provides them.

Three settings serving approximately 30 of the 572 unique individuals receiving ADHC services through the EDCD waiver are located in settings presumed to be institutional because the settings are located on the grounds of a nursing facility or hospital. Telephone interviews were conducted with the staff at the three ADHC sites identified. Each site was described with the following characteristics: provides services separate from the nursing facility/hospital; does not share staff; does not participate in activities at the nursing facility or with nursing facility residents including meals and recreational activities; provides access to the greater community; and, the ADHC provider is selected by the individual.

DMAS will conduct continued assessment of the three sites presumed to be institutional to determine if they are in fact HCB settings. This assessment will be ongoing for the next 12 months (March 2016). Once the determination is made regarding the compliance of the setting with The Rule, DMAS will provide an update to CMS. Should the assessment result in a determination of compliance with The Rule, DMAS will submit evidence to CMS for heightened scrutiny of those provider agencies. If the determination is made that the settings do not comply, DMAS will submit to CMS a remediation strategy designed to support the settings to come into compliance. This strategy would include the development of additional program policies and regulatory requirements for ADHC providers to ensure compliance with The Rule. Providers that are unable to comply with The Rule will forfeit their Medicaid Waiver provider status and be disenrolled by March of 2019. In such instances, DMAS will notify individuals receiving services and their families, as appropriate, of the provider's status, anticipated disenrollment and the need to transition to a setting that complies with the Final Rule.

Individuals receiving EDCD waiver services in an ADHC setting deemed to be non-compliant will be notified of the status of their ADHC site and the need to choose a different site. They will be provided with contact information for alternate providers. Individuals and families will have the opportunity to determine through informed choice an alternate provider of ADHC services. The process will include the following:

- Individuals will be provided with reasonable notice of the need to transition and select another setting.
- Individuals will be actively engaged and involved in an individualized and person-centered manner in the selection of a new provider/site to include a relocation timeline and information and supports to make an informed choice for an alternate setting that complies with the settings requirements.
- Transition activities and assurances that services and supports are planned for and will be in place when an individual transitions.

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Appendix B: Elderly or Disabled with Consumer Direction Waiver

B. Assessment of EDCD waiver and licensure regulations and related policies

The assessment process included a review of EDCD waiver regulations and related policies and procedures. The assessment concluded that current regulations are supportive of the HCBS final rule. Regulations require:

- Freedom of choice of service provider;
- Reasonable accommodations of individuals needs and preferences;
- Assistance with community access as needed and desired;
- The provider to protect and promote the rights of each individual; and that,
- Services and supplies be provided in the same quality and in the same mode of delivery as are provided to the general public.

C. Public/Stakeholder engagement

On July 29, August 5, and August 11, 2014 from 9:00 am - 10:30 am the Department of Medical Assistance Services conducted a WebEx session (webinar) entitled **Overview of CMS Final Ruling on Home and Community Based Settings** for Medicaid providers who are classified as Adult Day Health Centers, Transition Coordinators, Services Facilitators, and Home Health Agencies. The session was specifically targeting administrators and staff that conduct assessments, develop plans of care and are involved in implementing plans of care. The agenda included the following content and discussion:

- CMS Final Rule on Home and Community Based Settings Background and Purpose
- CMS Final Rule Requirements
- Implications for Virginia Medicaid Home and Community Based Waivers
- Progress to Date
- Summary
- Questions

D. A chart detailing assessment activities, progress and status begins below.

Task(s)	Description of Tasks	Assessment Methods	Proposed End Date	Responsible Parties/Stakeholders	Progress / Status
Site Landscape Assessment	Evaluate the types of services being provided to individuals through the waiver, and in what types of settings throughout the state. Also evaluate the types of providers rendering services through the waiver.	Internal consultation with LTC staff, EDCD SME, consultation with providers and stakeholders.	1/15/2015	Waiver Operations Staff, EDCD SME, VDSS Licensing, Stakeholders and stakeholder associations	Met with EDCD SME and discussed the types of providers and the types of settings in which services are provided through the waiver. Determined that services are provided by providers that are primarily non-residential in

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Appendix B: Elderly or Disabled with Consumer Direction Waiver

Task(s)	Description of Tasks	Assessment Methods	Proposed End Date	Responsible Parties/Stakeholders	Progress / Status
					nature and/or in a non-provider owned or operated setting.
Setting Requirement Compliance Assessment	Assess sites statewide providing HCBS to individuals in the EDCD waiver as compliant, partially compliant, or non-compliant.	Internal review of QMR reports, provider monthly or quarterly reports on waiver participants, observations made from sample site visits	1/15/2015	LTC Staff (QMR, EDCD SME, Waiver Operations Staff), VDSS Licensing	Services provided in individuals' own homes or apartments are settings that are HCB and are fully compliant. Center-based ADHC settings are mostly compliant.
Setting Characteristics Assessment	Assess sites statewide providing HCBS to individuals in the EDCD waiver as either Home and Community Based, Institutional, or Presumed Institutional	Internal review of QMR reports, observations made from sample site visits	1/15/2015	LTC Staff (QMR, EDCD SME, Waiver Operations Staff), VDSS Licensing	Services provided in individuals' own homes or apartments are settings that are HCB and are fully compliant. Center-based ADHC settings are mostly compliant.
Setting Presumed to be Institutional	Settings of ADHC are either located on the same grounds as institutions or have the effect of isolating individuals. Settings of ADHC services will either need to undergo heightened scrutiny, or will be assessed as noncompliant by the state.	Gather additional documentation to determine the need to request Heightened Scrutiny (for sites that can be considered HCB) and/or inability to comply: Setting Self-Assessment, QMR reports, Licensing Reports (if applicable), site visits, interviews with site administrators.	3/17/2016	Waiver Operations Staff, Aging Service Staff, VDSS Licensing	Three ADHC sites have been identified as sites that are located in the same grounds as an institution/NF.

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Task(s)	Description of Tasks	Assessment Methods	Proposed End Date	Responsible Parties/Stakeholders	Progress / Status
Regulatory & Policy Review/ Assessment	Review and assess EDCD waiver regs, as well as regs and policy through any other agency that is involved in licensing of EDCD Providers.	Staff reviews by DMAS staff and other agencies with regs. governing the waiver (licensing of providers for the waiver) for each agency's respective set of EDCD waiver regs.	1/15/2015	Waiver Operations Staff, Aging Services Staff, VDSS Licensing, Stakeholders	EDCD Waiver regulations & licensure and related policies generally support the final rule setting requirements. More specific language could be incorporated into regulation and policy to strengthen the expectation of compliance with the setting requirements.

E. Remediation Actions

Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item	Description	Dates	Responsible Parties/ Stakeholders	Outcome
Setting Presumed to be Institutional	Based on assessment results, notify settings deemed out of compliance of the determination and develop strategies necessary to become compliant.	6/2016	DMAS	ADHC providers will take actions to comply with The Rule.
Notification of individuals/families	Individuals and family members impacted by potential provider disenrollment notified of provider status and provided information and	7/2018	DMAS	Individuals provided with reasonable notice, timeline, process and resources for choice of alternative setting.

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Appendix B: Elderly or Disabled with Consumer Direction Waiver

Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item	Description	Dates	Responsible Parties/ Stakeholders	Outcome
	resources to make informed choice of alternate provider.			
Regulatory and Policy Updates	Based on qualitative and quantitative regulatory and policy assessments develop, propose, and implement regulatory and policy changes to better align with HCBS settings requirements. Completed by date includes the development, public comment, revision, Attorney General other required reviews, approval and promulgation of regs by 10/18.	Completed by 10/2018	DMAS Waiver Operations Staff, Aging Services Staff, VDSS Licensing	Enhancement of regulations and policies in full support and alignment with the Final Rule's settings requirements
Provider Manual Changes	Changes to provider manuals to supplement regulations to ensure that providers have the information and instruction needed to implement and comply with settings requirements, in addition to following what is already existent in current DMAS and VDSS regulations	Completed by 3/2019	DMAS Waiver Operations Staff, Aging Services Staff, VDSS Licensing	Instructive provider manual providing needed guidance on settings requirements and compliance
Education & Training	Design, develop and implement an education and training plan incorporating the HCBS final rule and Virginia's Statewide Transition Plan	Plan and Materials Completed by 3/2016 Activities will	DMAS Waiver Operations Staff and QMR Staff, Aging Services Staff, VDSS Licensing	Education and training resources and materials that reflect settings requirements and the Final Rule

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Appendix B: Elderly or Disabled with Consumer Direction Waiver

Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item	Description	Dates	Responsible Parties/ Stakeholders	Outcome
	into training and education materials for providers, individuals and families, professionals and other stakeholders and interested parties.	be Ongoing		
Provider Enrollment	Design and implement a plan for incorporating necessary training and education into provider enrollment, orientation and provider employee training.	Implemented by 7/2018 Ongoing	DMAS Waiver Operations Staff, QMR and Provider Enrollment staff, Aging Services Staff, VDSS Licensing	Educated providers and assurance of compliance upon enrollment
Compliance Monitoring	Participate in a multi-agency/department and stakeholder compliance monitoring team.	6/2015 and Ongoing	Compliance & Monitoring Team	Multi-agency development of SME's and consistent implementation and oversight of compliance with rule and transition plan milestones

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INTRODUCTION

On January 16, 2014 the Centers for Medicare & Medicaid Services (CMS) issued a final rule for home and community based services (HCBS) that requires states to assess home and community based settings to determine compliance with the settings requirements of the final rule. The Virginia Department of Medical Assistance Services (DMAS), the state Medicaid authority, is the operating agency for the Alzheimer's Assisted Living (AAL) waiver. DMAS has worked to develop this Transition Plan as a means of outlining current status of compliance with Centers for Medicare and Medicaid Services (CMS) Final Rule.

Per regulation, individuals receiving AAL waiver services must reside in an Assisted Living Facility (ALF) licensed by the Department of Social Services. Currently Virginia has 16 total enrolled ALFs to provide HCBS for AAL waiver participants. Of the 16, 13 are actively providing services, and three are enrolled, but currently not providing services for any individuals on the AAL waiver. As of 12/31/14, 54 of 200 available slots for the AAL waiver are being used.

Virginia's AAL waiver assessment of settings and needed actions includes the following information:

- A. Assessment of Characteristics of AAL waiver settings across the state
- B. Assessment of AAL waiver regulations, licensing regulations and related policies
- C. Public/Stakeholder Engagement
- D. Assessment activities chart
- E. Remediation Actions

ASSESSMENT OF SETTINGS

A. Assessment of Characteristics of AAL waiver settings across the state

After completing on-site visits and processing observations made during the visits as well as analyzing provider responses to the provider self-assessment, and obtaining preliminary data from DMAS Quality Management Review (QMR), DMAS determined that current AAL waiver providers are Home and Community Based, in spite of having characteristics that could otherwise result in an initial determination of being "Presumed to be Institutional." Based on the provider self-assessment, there is a need for AAL providers to strengthen documentation practices in person centered plans to support, in an individualized manner, modifications to some of the setting requirements that AAL providers have identified as being challenging to apply to the Alzheimer population. These challenges include, but are not limited to:

- 1) Individuals require safety mechanisms regardless of the setting they are in to prevent wandering (therefore use of secured units or buildings is necessary).
- 2) Residents like and probably need routine to function at their highest level.
- 3) Residents like being congregated with other people and the need for increased privacy has historically not been a concern.
- 4) Coming and going freely into the greater community can be a safety issue.

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- 5) Activities are primarily based in the facility and facilitated by AAL waiver provider staff. Outings into the greater community are organized by activity departments, and not always as a result of input from family/individual residents.

DMAS intends continued assessment of the quality of the experience of individuals receiving AAL waiver services, and, based on the results of the assessment, and if warranted, will submit justification of the ALF setting being assessed as home and community based to CMS by March 15, 2016. The information will be provided to the Secretary of Health and Human Services if it is decided that there is a need to make a final determination through heightened scrutiny that one or more AAL settings is or is not home and community based. Stakeholder input during the public comment period on AAL waiver transition plan, additional interviews with stakeholders and providers, additional site visits will be used to supplement DMAS' justification, if needed, that an ALF(s) enrolled as AAL waiver provider(s) in Virginia can be considered home and community based.

If the determination is made that the ALF setting does not comply with The Rule, DMAS will submit to CMS a remediation strategy designed to support the settings to come into compliance. This strategy would include the development of additional program policies and regulatory requirements for enrolled ALF providers to ensure compliance with The Rule. Providers that are unable to comply with The Rule will forfeit their Medicaid Waiver provider status and be disenrolled by March of 2019. In such instances, DMAS will notify individuals receiving services and their families, as appropriate, of the provider's status, anticipated disenrollment and the need to transition to a setting that complies with the Final Rule.

Individuals receiving AAL waiver services in a setting deemed to be non-compliant will be informed of the need to move to a different site. They will be provided with contact information for alternate sites and individuals and families will have the opportunity to determine through informed choice an alternate provider of AAL waiver services. The process will include the following:

- Individuals will be provided with reasonable notice of the need to transition and to select another setting.
- Individuals will be actively engaged and involved in an individualized and person-centered manner in the selection of a new provider/site to include a relocation timeline and information and supports to make an informed choice for an alternate setting that complies with the settings requirements.
- Transition activities and assurances that services and supports are planned for and will be in place when an individual transitions.

B. Assessment of AAL waiver regulations, licensing regulations and related policies

After a thorough comparative policy analysis of current DMAS AAL waiver regulations as well as VDSS ALF Licensing regulations, DMAS has determined that through the joint application and authority of both sets of regulations, Medicaid enrolled Assisted Living Facilities (ALFs) with secured memory care units overall are already compliant with the settings requirements of the Final Rule. Through the policy

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analysis, DMAS did identify three major areas in need of improvement to bring all Medicaid enrolled ALFs into full compliance with all of the setting requirements:

- 1) More explicit language to encourage stronger community integration of individuals in secured memory units into the "greater community", with greater community meaning outside the ALF's grounds.
- 2) Rewording regulations related to snacks and mealtime to ensure that individuals in ALFs have access to food at all times, and not on just a set schedule determined by the facility, unless contraindicated by a physician.
- 3) Placing within the regulations for ALFs that individuals have a right to lock their room and have a choice of their roommate (so long as safety and welfare of individual is not compromised).

The first step to enforcement is having the appropriate regulations in place to which providers, licensing staff and QMR staff may refer when doing audits to ensure compliance. As part of the initial compliance assessment process, DMAS LTC engaged in conversations with VDSS Licensing staff regarding possible changes to be made to the licensing regulations for all ALFs in the Commonwealth of Virginia. These initial discussions helped to re-emphasize the need for joint enforcement of both sets of agency regulations for currently enrolled AAL providers. After conducting a comparative policy analysis of VDSS Licensing regulations for ALFs (including the licensing regulations for ALFs with secured memory care units), DMAS LTC staff concluded that based upon what is currently in the regulations, ALFs (Medicaid enrolled or non-Medicaid enrolled) are already mostly compliant with the setting requirements and are already home and community based. Any regulatory changes that will be proposed for ALFs should not present challenges to either current or future licensed ALFs.

C. Public/Stakeholder Engagement

On July 29, August 5, and August 11, 2014 from 9:00 am - 10:30 am the Department of Medical Assistance Services conducted a WebEx session (webinar) entitled **Overview of CMS Final Ruling on Home and Community Based Settings** for Medicaid providers who are classified as Adult Day Health Centers, Transition Coordinators, Services Facilitators, and Home Health Agencies. The session was specifically targeting administrators and staff that conduct assessments, develop plans of care and are involved in implementing plans of care. The agenda included the following content and discussion:

- CMS Final Rule on Home and Community Based Settings Background and Purpose
- CMS Final Rule Requirements
- Implications for Virginia Medicaid Home and Community Based Waivers
- Progress to Date
- Summary
- Questions

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D. A chart detailing assessment activities, progress and status begins below.

Task(s)	Description of Tasks	Assessment Methods	Proposed End Date	Responsible Parties/Stakeholders	Progress / Status
Site Landscape Assessment	Evaluate what services are being provided as part of the AAL waiver, and in how many facilities across the commonwealth. Identify how many individuals are currently utilizing the AAL waiver.	Evaluation will be conducted using the following methods/resources: DMAS Long Term Care (LTC) Provider Enrollment Records	1/15/2015	DMAS LTC Staff, Virginia Department of Social Services Licensing (VDSS), Virginia Assisted Living Association (VALA), Alzheimer's Association of Virginia	16 total enrolled ALFs in Virginia to provide HCBS for AAL waiver participants. Of the 16, 13 are actively providing services, and three are enrolled, but currently not providing services for any individuals on the AAL waiver. <ul style="list-style-type: none"> As of 12/31/14, currently 54 of 200 available slots for the AAL waiver are being used.
Provider Self-Assessment & Analysis	Enrolled Medicaid AAL providers will conduct a self-assessment of their current compliance level with the setting requirements and Person Centered Planning standards in the Final Rule, and will offer feedback to DMAS.	Assessment conducted using A modified version of CMS' Tool "Exploratory Questions" sent directly to current AAL waiver providers to fill out and return to DMAS.	9/15/2014	DMAS LTC, VALA, ALZ Association, Enrolled AAL Waiver Providers	8/29/14 – Received a total of 11 (of 16) provider self-assessments.

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Task(s)	Description of Tasks	Assessment Methods	Proposed End Date	Responsible Parties/Stakeholders	Progress / Status
Setting Requirements Compliance Assessment	Assess currently (Medicaid) enrolled assisted living facilities (ALFs) providing HCBS to individuals participating in the AAL waiver for current, or ability for future compliance with Final Rule Setting Requirements.	<p>Assessment conducted using the following methods/resources:</p> <ul style="list-style-type: none"> • DMAS sample site visits • Quality Management Review (QMR) data • VDSS Licensing Observations • Input from VALA, ALZ Association, and providers 	3/15/2017	LTC Staff (QMR, AAL SME, Waiver Operations Staff), VDSS Licensing, VALA, ALZ, AAL Waiver Providers	<p>3/6/14 – Initial on-site visit completed for an AAL waiver provider in the Tidewater Regional area of Virginia.</p> <p>5/14/14 – Input from Virginia Assisted Living Association (VALA), Alzheimer's Association, and a sample of current AAL waiver providers indicated concern regarding how the settings requirements work well with receiving AAL services.</p> <p>8/18/14 – Second on-site visit to an AAL waiver provider completed in the Richmond Metro area.</p> <p>8/20/14 – Third on-site visit to an AAL waiver provider completed in the southwestern region of Virginia.</p> <p>9/3/14 – Preliminary data regarding areas of non-compliance based upon current regulations and requirements obtained from QMR.</p>

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Task(s)	Description of Tasks	Assessment Methods	Proposed End Date	Responsible Parties/Stakeholders	Progress / Status
Setting Characteristics Assessment:	Assess currently enrolled (Medicaid) ALFs providing HCBS to individuals in the AAL waiver as Home and Community Based, Institutional, or Presumed Institutional.	Assessment conducted using the following methods/ resources: <ul style="list-style-type: none"> • DMAS sample site visits • DMAS QMR data • VDSS Licensing observations • Stakeholder input • CMS Transition Plan Toolkit (Guidance on Settings that Isolate) 	3/17/2016	DMAS LTC, VDSS Licensing, VALA, ALZ Association, AAL Waiver Providers Gather additional documentation to determine the need to request Heightened Scrutiny (for sites that can be considered HCB): Setting Self-Assessment, QMR reports, Licensing Reports (if applicable), site visits, interviews with site administrators/families.	11/5/14 – Based on comparative policy analysis, observations made during on-site visits, as well as provider feedback, DMAS LTC determined that ALFs enrolled as AAL waiver providers are likely Home and Community Based.
Regulatory & Policy Review/ Assessment	Review and assess AAL waiver regs, as well as regs and policy through any other agency that is involved in licensing of AAL Providers.	Staff reviews by DMAS staff and other agencies with regs. governing the waiver (licensing of providers for the waiver) for each agency's respective set of regs.	11/15/2014	Waiver Operations Staff, Aging Services Staff, VDSS Licensing, Stakeholders	Comprehensive assessment and comparative analysis completed. Regulations generally support the settings requirements however, there are areas for Improvement.

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Task(s)	Description of Tasks	Assessment Methods	Proposed End Date	Responsible Parties/Stakeholders	Progress / Status
Quality of Individual Experience Assessment	Collect information regarding the quality of an individual on the AAL waiver's experience in current Medicaid enrolled ALFs.	Staff reviews by DMAS staff and other agencies with information and insight on the quality of experience. Provider self-assessment	9/15/2015	DMAS staff	3/6/14, 8/18/14, 8/20/14 – Onsite visits conducted with a sample of AAL waiver provider settings. Review of ISPs for individuals receiving AAL services. Tour of facilities conducted with administrators of facilities and observations made of how services are provided to participants during recreational and meal times.

E. Remediation Actions

Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item		Description	Dates	Responsible Parties/ Stakeholders	Outcome
Setting Presumed to be Institutional		Based on assessment results, notify settings deemed out of compliance of the determination develop strategies necessary to become compliant.	June/2016	DMAS, identified ALFs	AAL providers will take actions to comply with the rule. DMAS will work with those providers unable to comply on a transition

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Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item		Description	Dates	Responsible Parties/ Stakeholders	Outcome
					strategy.
Notification of individuals/families		Individuals and family members impacted by potential provider disenrollment notified of provider status and provided information and resources to make informed choice of alternate provider.	7/2018	DMAS	Individuals provided with reasonable notice, timeline, process and resources for choice of alternative setting.
Regulatory and Policy Updates		Based on qualitative and quantitative regulatory and policy assessments develop, propose, and implement regulatory and policy changes to better align with HCBS settings requirements. Completed by date includes the development, public comment, revision, Attorney General other required reviews, approval and promulgation of regs by 10/18.	Completed by 3/2018	DMAS Waiver Operations Staff, Aging Services Staff, VDSS Licensing	Regulations and Policies in full support and alignment with the Final Rule's settings requirements
Provider Manual Changes		Changes to provider manuals to supplement regulations to ensure that providers have the information and instruction needed to implement setting requirements, in addition to following what is already existent in current DMAS and VDSS regulations	Completed by 3/2019	DMAS Waiver Operations Staff, Aging Services Staff, VDSS Licensing	Instructive Provider Manual providing guidance on settings requirements
Education & Training		Design and implement a communication plan for incorporating the HCBS final rule and Virginia's Statewide	Plan and Materials Completed by 3/2016	DMAS Waiver Operations and QMR Staff, Aging Services Staff, VDSS Licensing	Resources training and education materials reflecting settings requirements and the Final Rule

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Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item		Description	Dates	Responsible Parties/ Stakeholders	Outcome
		Transition Plan into training and education materials for providers, individuals and families, professionals and other stakeholders and interested parties.	Activities will be Ongoing		
Provider Enrollment		Design and implement a plan for incorporating necessary training and education into provider enrollment, orientation and provider employee training.	Completed by 3/2019 Ongoing	DMAS Waiver Operations Staff, QMR and Provider Enrollment staff, Aging Services Staff, VDSS Licensing	Educated providers and assurance of compliance upon enrollment
Compliance Monitoring		Participate in a multi-agency/department and stakeholder compliance monitoring team.	Team Assembled by 6/2015 Ongoing	Compliance & Monitoring Team	Multi-agency development of SME's and consistent implementation and oversight of compliance with rule and Transition Plan milestones
Monitoring Tools Assessment and Modification		Review and modify as needed QMR provider review tool to include review of compliance with settings requirements; particularly around documentation of provider modifications to residential settings requirements for AAL waiver individuals.	10/15/2015	DMAS Waiver Operations and QMR staff	QMR staff have the information, tools and resources to review and determine settings compliance during QMR review
Enforcement/Training		Develop and implement training of QMR staff and VDSS Licensing staff to incorporate requirements	6/1/2016	DMAS Waiver Operations Staff, QMR and VDSS Licensing	QMR and VDSS Licensing staff have the knowledge skill and abilities to provide

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Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item		Description	Dates	Responsible Parties/ Stakeholders	Outcome
		as outlined in the Final Rule into inspections and site reviews of providers. requirements.			technical assistance and monitor compliance with the Final Rule requirements

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APPENDIX D: INDIVIDUAL AND FAMILIES DEVELOPMENTAL DISABILITIES
SUPPORT WAIVER

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INTRODUCTION

On January 16, 2014 the Centers for Medicare & Medicaid Services (CMS) issued a final rule for home and community based services (HCBS) that requires states to assess home and community based settings to determine compliance with the settings requirements of the final rule. The Virginia Department of Behavioral Health and Developmental Services is the operating agency for the Individuals and Families Developmental Disability Supports waiver (DD waiver). DBHDS has worked to develop this Transition Plan as a means of outlining current status of compliance with Centers for Medicare and Medicaid Services (CMS) Final Rule.

Many activities occurring in the state as part of the I/DD system transformation will impact this transition plan, however, they are mentioned here only for context. The focus of this transition plan is on the CMS HCBS settings requirements only. Additionally, elements of the CMS final rule which are not directly related to the settings requirements are likewise not addressed in this document.

Virginia's Individuals and Families Developmental Disability Supports waiver assessment of settings and needed actions includes the following information:

- A. Assessment of characteristics of DD waiver settings across the state
- B. Assessment of DD waiver regulations and related policies
- C. Assessment activities chart
- D. Remediation actions

ASSESSMENT OF SETTINGS & NEEDED ACTIONS

A. Assessment of characteristics of DD waiver settings across the state

The DBHDS assessment process included a review of DD waiver regulations, related DBHDS regulations including licensure regulations, policies and procedures, provider self-assessment, and site specific assessments. DBHDS reviewed the characteristics of settings in which individuals receiving DD waiver services reside. The state has determined that all participants reside in settings that are fully compliant with the settings requirement of the HCBS final rule. Individuals receiving DD waiver services reside in their own home or family home. Services are not provided in a provider owned or operated setting and the settings fully comport with CMS requirements. Each setting:

- Is integrated in and supports full access to the greater community;
- Is selected by the individual;
- Ensures an individual's right to privacy, dignity, respect and freedom from coercion and restraint;
- Optimizes individual initiative, autonomy and independence; and,
- Facilitates individual's choice regarding services and supports and who provides them.

Virginia is currently in the provider self-assessment phase with an anticipated end date of 2/28/15. This self-assessment phase is incorporated within the Transition Plan for ID waiver providers which will also help inform the level of compliance of DD waiver services delivered in non-residential settings. The Transition Plan incorporates a settings checklist that was distributed to all DBHDS-licensed providers of

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settings provision of the Final Rule. Providers have been instructed to complete this checklist by January 31, 2015.

Concurrent with receipt of the checklist, providers will be instructed to provide feedback to DBHDS and DMAS regarding their self-assessment of their site(s). This will be accomplished through responses to questions via Survey Monkey due by January 31, 2015. This self-assessment survey requires each provider to indicate whether the provider believes the setting meets setting requirements and the intent of the rule; whether modifications will be required in order to comply; or whether the setting does not and cannot meet requirements. In addition, there will be an option to request technical assistance from DBHDS staff.

After completion and submission of the Survey Monkey provider self-assessment, providers will be mailed a letter reiterating the Office of Licensing monitoring activities and Quality Management Review (QMR) technical assistance that will take place between March 2015 and April 2016. The monitoring activities will help to ensure the provider self-assessment is accurate and settings do fully comply. The letter will also inform providers that indicate via the self-assessment that they do not fully comply, but can comply with modifications of resources, contact information to receive guidance and technical assistance to assist with coming into compliance.

A process and protocol for follow up self-assessments will be developed and implemented by September 2015. The purpose of follow-up self-assessments is to assist with monitoring providers' progress with coming into compliance and the need for technical assistance. Qualitative and quantitative data from the self-assessments will be used to further determine compliance status, remediation needs and strategies, and the potential need to transition individuals from non-compliant settings.

DBHDS conducted an internal assessment, through the Office of Licensing, of the characteristics of currently enrolled provider settings in which certain services are delivered. The settings present in the delivery of DD waiver services and a preliminary status of compliance is provided below:

Day Support	Status of Compliance
<ul style="list-style-type: none">○ Day Support	<ul style="list-style-type: none">● Day Support services are provided for training in intellectual, sensory, motor, and affective social development including awareness skills, sensory stimulation, use of appropriate behaviors and social skills, learning and problem solving, communications and self-care, physical development, and services and support activities. These services take place outside of the individual's home/residence.● It has been determined that there are Day Support settings that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will

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	<p>bring the majority/all settings into compliance.</p> <ul style="list-style-type: none"> • Additional assessment and analysis, to include information reported by the provider via the provider self-assessment described below, will be completed by March 2016.
Prevocational	Status of Compliance
<ul style="list-style-type: none"> ○ Day Support 	<ul style="list-style-type: none"> • Pre-vocational services are services aimed at preparing an individual enrolled in the waiver for paid or unpaid employment. The services do not include activities that are specifically job-task oriented but focus on concepts such as accepting supervision, attendance at work, task completion, problem solving, and safety. • It has been determined that there Prevocational Day Support settings that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority/all settings into compliance. • Additional assessment and analysis, to include information reported by the provider via the provider self-assessment described below, will be complete by March 2016.
Group Supported Employment	Status of Compliance
<ul style="list-style-type: none"> ○ Community-based work crew or enclave 	<ul style="list-style-type: none"> • Group supported Employment is continuous support provided by staff for eight or fewer individuals with disabilities in an enclave, work crew, or bench/work entrepreneurial model. • It has been determined that there are Group Supported Employment models that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority/all settings into compliance. • Additional assessment and analysis, to include information reported by the provider via the provider self-assessment described below, will be complete by March 2016.

Additional assessment is needed to determine the number of setting that fully comply, do not comply but will with modifications, do not and cannot comply, and settings that require heightened scrutiny.

B. Assessment of DD Waiver regulations and related regulations

In Virginia, most settings impacted by the Final Rule (particularly those settings involving provider-owned or controlled residential settings) are licensed by DBHDS. Changes to the licensure regulations have been proposed in order to implement additional provider requirements to comport with the Final Rule. This effort will be expanded to incorporate ongoing input from a stakeholder workgroup (comprised of representatives of other state agencies, providers, Community Services Boards, advocacy

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Appendix D: Individual and Families Developmental Disabilities Support Waiver organizations and individuals/family members) as illustrated in the "Remediation" section of this Transition Plan.

All providers licensed by DBHDS must comply with DBHDS Office of Human Rights regulations. DBHDS completed a cross-walk assessment of its current Human Rights regulations to the Final Rule

in the spring of 2014. The current Human Rights regulations were found to be consistent with and supportive of the Final Rule elements.

Based on review and analysis of all applicable DD waiver regulations, Virginia acknowledges that the current regulations do *not* fully support the new CMS HCBS Final Rule settings requirements. A review indicates that the following characteristics are not present in all settings:

- Required processes for modifications in the event that there are individual-specific restrictions.
- Individual services are received in the community with the same degree of access as individuals not receiving Medicaid home and community-based services.
- Services are able to be selected by the individual from among setting options, including non-disability specific settings.
- Services are integrated in and support access to the greater community.
- Services provide the opportunity to seek employment, work in a competitive integrated setting, and fully engage in community life.

Further, DMAS DD waiver regulations will require revision to place a greater emphasis on ensuring that individuals receiving HCBS services have the same degree of access to an integrated community life as individuals not receiving Medicaid HCBS. Needed revisions to regulations will help to ensure that all HCBS, including day services, are integrated and meet settings requirements.

C. A chart detailing assessment activities, progress and status begins below.

Task(s)	Description of Tasks	Assessment Methods	End Date	Responsible Parties	Progress / Status
Site Landscape Assessment	Evaluate the types of services being provided to individuals through the DD waiver, and in what types of settings throughout the state. Also evaluate the types of providers rendering services through the waiver.	Consult with DD Waiver Staff, Review of Licensing & QMR reports, provider self-assessment	1/2015	DBHDS, DD Waiver Staff, DMAS Waiver Operations Staff	DD waiver staff identified that services are offered for individual waiver participants in their own or family home. There is no provider owned or operated component to services provided in an individual's own home. Provider type has been identified as Home Care agencies and in-home residential services providers. Pre-Vocational services are center-based services. Day support services are center-based services. Group

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Task(s)	Description of Tasks	Assessment Methods	End Date	Responsible Parties	Progress / Status
					Supported Employment services are provided in integrated community work settings.
Settings Requirements Compliance Assessment	Assess sites statewide providing HCBS services to individuals in DD waiver as compliant, partially compliant, or non-compliant.	Consult with DD Waiver Staff, Review of Licensing & QMR reports, provider self-assessment	3/2016	DBHDS, DD Waiver Staff, DMAS Waiver Operations Staff	<p>The settings assessment concluded that services provided through this waiver within the individual's home are fully compliant.</p> <p>Group Supported Employment, Pre-vocational and Day Support services are delivered in settings which are fully compliant; mostly compliant, but could be fully compliant with modifications; and, not compliant, but could be fully compliant with modifications.</p>
Setting Characteristics Assessment	Assess sites statewide providing HCBS to individuals in the DD waiver as either Home and Community Based, Institutional, or Presumed Institutional	Consult with DD Waiver Staff, Review of Licensing & QMR reports, provider self-assessment	3/2016	DBHDS, DD Waiver Staff, DMAS Waiver Operations Staff	<p>DD waiver services (other than day or employment related services) are not provided in a provider owned or operated setting, a segregated institutional setting or a setting with the characteristics of an institutional setting. The settings are already Home and Community Based.</p> <p>Group Supported Employment, Pre-vocational and Day Support services are delivered in settings which are fully compliant, not compliant and mostly compliant, but could be fully compliant with modifications.</p>
Waiver Regulations and Policy Assessment	Review and crosswalk waiver regulations, licensing of providers for the waiver, provider manuals and policy with the settings requirements	Review DBHDS, DMAS and other agency regulations governing the waiver (licensing of providers for the waiver).	1/15/2015	DBHDS, DD waiver Staff, DMAS Waiver Operations Staff	DD Waiver regulations & licensure and related policies generally, but not fully, support the final rule setting requirements. More specific language could be incorporated into regulation and policy to strengthen the expectation of compliance with the settings requirements.

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D. Remediation Actions

Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item	Description	Dates	Responsible Parties/ Stakeholders	Outcome
Regulatory and Policy Updates	<ul style="list-style-type: none"> • Submit DD Waiver amendments • Develop emergency licensure regulations based on qualitative and quantitative regulatory and policy assessments • Implement regulatory and policy changes to better align with HCBS settings requirements. 	<ul style="list-style-type: none"> • Spring 2015 • 9/2015 	DBHDS, DMAS	Regulations and Policies in full support and alignment with the Final Rule's settings requirements
Provider Manual Changes	<ul style="list-style-type: none"> • Update provider manuals to supplement regulations to ensure that providers have the information and instruction needed to implement setting requirements, inclusive of those services/settings not licensed by DBHDS such as group supported employment, in addition to following what is already existent in current DBHDS and DMAS regulations. 	<ul style="list-style-type: none"> • January 2016 	DBHDS, DMAS	Instructive Provider Manual providing guidance on settings requirements
Outreach, Education & Training	<ul style="list-style-type: none"> • Design, develop and implement an education and training plan incorporating the HCBS final rule and Virginia's Statewide Transition Plan into training and education materials for providers, individuals and families, professionals and other stakeholders and interested parties. 	<ul style="list-style-type: none"> • Training to begin 10/2015-2/2016 in anticipation of the start of the Building Independence Waiver in 1/2016. • Additional training will be ongoing 	<ul style="list-style-type: none"> • DBHDS Provider Development Staff (CRCs) • Provider Forums • TACIDD 	Resources, training and education materials reflecting settings requirements and the final rule.

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Appendix D: Individual and Families Developmental Disabilities Support Waiver

Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item	Description	Dates	Responsible Parties/ Stakeholders	Outcome
Compliance Monitoring	<ul style="list-style-type: none"> • Site visits and inspections of provider settings for monitoring of requirements and delivery of technical assistance • DD waiver representative will participate on a multi-agency/department compliance monitoring team. 	<ul style="list-style-type: none"> • 3/2015-4/2016 • 6/2015 and ongoing 	<ul style="list-style-type: none"> • DBHDS Licensing staff • DMAS QMR Staff • Compliance and Monitoring Team 	<ul style="list-style-type: none"> • Compliance • Multi-Agency development of SME's and consistent implementation and oversight of compliance with rule and Transition Plan milestones
Provider Enrollment	<ul style="list-style-type: none"> • Design and implement a plan for incorporating necessary training and education into provider enrollment, orientation and provider employee training. 	<ul style="list-style-type: none"> • Completed by 3/2016 • Ongoing 	<ul style="list-style-type: none"> • DMAS, QMR and Provider Enrollment staff, 	<ul style="list-style-type: none"> • Educated providers and assurance of compliance upon enrollment
Provider Sanctions	<ul style="list-style-type: none"> • Letters distributed to provider agencies noting non-compliance/potential disenrollment • Transition of individuals served by disenrolled providers to alternate settings • Provider Disenrollment 	<ul style="list-style-type: none"> • 6/2018 • 7/2018 • 3/2019 	<ul style="list-style-type: none"> DBHDS staff DMAS QMR Staff 	<ul style="list-style-type: none"> All settings will be in full compliance

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APPENDIX E: DAY SUPPORT WAIVER

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INTRODUCTION

On January 16, 2014 the Centers for Medicare & Medicaid Services (CMS) issued a final rule for home and community based services (HCBS) that requires states to assess home and community based settings to determine compliance with the settings requirements of the final rule. The Virginia Department of Behavioral Health and Developmental Services is the operating agency for the Day Support Waiver (DS Waiver). DBHDS has worked to develop this Transition Plan as a means of outlining current status of compliance with Centers for Medicare and Medicaid Services (CMS) Final Rule.

Many activities occurring in the state as part of the I/DD system transformation will impact this transition plan, however, they are mentioned here only for context. The focus of this transition plan is on the CMS HCBS settings requirements only. Additionally, elements of the CMS final rule which are not directly related to the settings requirements are likewise not addressed in this document.

Virginia's Individuals and Families Developmental Disability Supports waiver assessment of settings and needed actions includes the following information:

- A. Assessment of characteristics of DS Waiver settings across the state
- B. Assessment of DS Waiver regulations and related policies
- C. Assessment activities chart
- D. Remediation actions

ASSESSMENT OF SETTINGS & NEEDED ACTIONS

A. Assessment of characteristics of DS Waiver settings across the state

The DBHDS assessment process included a review of DS Waiver regulations, related DBHDS regulations including licensure regulations, policies and procedures, provider self-assessment, and site specific assessments. DBHDS reviewed the characteristics of settings in which individuals receiving DS waiver services reside. The state has determined that all participants reside in settings that are fully compliant with the settings requirement of the HCBS final rule. Individuals receiving DS waiver services reside in their own home or family home. Services are not provided in a provider owned or operated setting and the settings fully comport with CMS requirements. Each setting:

- Is integrated in and supports full access to the greater community
- Is selected by the individual
- Ensures an individual's right to privacy, dignity, respect and freedom from coercion and restraint
- Optimizes individual initiative, autonomy and independence
- Facilitates individuals choice regarding services and supports and who provides them

Virginia is currently in the provider self-assessment phase with an anticipated end date of 2/28/15. This self-assessment phase is incorporated within the Transition Plan for ID waiver providers which will also help inform the level of compliance of DS waiver services delivered in non-residential settings. The Transition Plan incorporates a settings checklist that was distributed to all DBHDS-licensed providers of prevocational and day support services, as well as group supported employment. The checklist was accompanied by an overview of the CMS Final Rule, including a link to the CMS toolkit website, and

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guidance information to assist the provider with understanding the intent of the requirements being evaluated in order to accurately complete the checklist. The checklist is designed to help providers determine areas in which their setting(s) meet or require improvement in order to comply with the settings provision of the Final Rule. Providers have been instructed to complete this checklist by January 31, 2015.

Concurrent with receipt of the checklist, providers will be instructed to provide feedback to DBHDS and DMAS regarding their self-assessment of their site(s). This will be accomplished through responses to questions via Survey Monkey due by January 31, 2015. This self-assessment survey requires each provider to indicate whether the provider believes the setting meets setting requirements and the intent of the rule; whether modifications will be required in order to comply; or whether the setting does not and cannot meet requirements. In addition, there will be an option to request technical assistance from DBHDS staff.

After completion and submission of the Survey Monkey provider self-assessment, providers will be mailed a letter reiterating the Office of Licensing monitoring activities and Quality Management Review (QMR) technical assistance that will take place between March 2015 and April 2016. The monitoring activities will help to ensure the provider self-assessment is accurate and settings do fully comply. The letter will also inform providers that indicate via the self-assessment that they do not fully comply, but can comply with modifications of resources, contact information to receive guidance and technical assistance to assist with coming into compliance.

A process and protocol for follow up self-assessments will be developed and implemented by September 2015. The purpose of follow-up self-assessments is to assist with monitoring providers' progress with coming into compliance and the need for technical assistance. Qualitative and quantitative data from the self-assessments will be used to further determine compliance status, remediation needs and strategies, and the potential need to transition individuals from non-compliant settings.

DBHDS conducted an internal assessment, through the Office of Licensing, of the characteristics of currently enrolled provider settings in which DS waiver services are delivered. The settings present in the delivery of DS waiver services and a preliminary status of compliance is provided below:

Day Support	Status of Compliance
○ Day Support	<ul style="list-style-type: none">• Day Support services are provided for training in intellectual, sensory, motor, and affective social development including awareness skills, sensory stimulation, use of appropriate behaviors and social skills, learning and problem solving, communications and self-care, physical development, and services and support activities. These services take place outside of the individual's home/residence.• It has been determined that there are Day Support settings that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority/all settings into compliance.• Additional assessment and analysis, to include information reported by

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	the provider via the provider self-assessment described below, will be completed by March 2016.
Prevocational	Status of Compliance
<ul style="list-style-type: none"> ○ Day Support 	<ul style="list-style-type: none"> • Pre-vocational services are services aimed at preparing an individual enrolled in the waiver for paid or unpaid employment. The services do not include activities that are specifically job-task oriented but focus on concepts such as accepting supervision, attendance at work, task completion, problem solving, and safety. • It has been determined that there are Prevocational Day Support settings that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority/all settings into compliance. • Additional assessment and analysis, to include information reported by the provider via the provider self-assessment described below, will be complete by March 2016.
Group Supported Employment	Status of Compliance
<ul style="list-style-type: none"> ○ Community-based work crew or enclave 	<ul style="list-style-type: none"> • Group supported Employment is continuous support provided by staff for eight or fewer individuals with disabilities in an enclave, work crew, or bench/work entrepreneurial model. • It has been determined that there are Group Supported Employment models that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority/all settings into compliance. • Additional assessment and analysis, to include information reported by the provider via the provider self-assessment described below, will be complete by March 2016.

Additional assessment is needed to determine the number of setting that fully comply, do not comply but will with modifications, do not and cannot comply, and settings that require heightened scrutiny.

B. Assessment of DS Waiver regulations and related regulations

In Virginia, most settings impacted by the Final Rule (particularly those settings involving provider-owned or controlled residential settings) are licensed by DBHDS. Changes to the licensure regulations have been proposed in order to implement additional provider requirements to comport with the Final Rule. This effort will be expanded to incorporate ongoing input from a stakeholder workgroup (comprised of representatives of other state agencies, providers, Community Services Boards, advocacy organizations and individuals/family members) as illustrated in the "Remediation" section of this Transition Plan.

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All providers licensed by DBHDS must comply with DBHDS Office of Human Rights regulations. DBHDS completed a cross-walk assessment of its current Human Rights regulations to the Final Rule in the spring of 2014. The current Human Rights regulations were found to be consistent with and supportive of the Final Rule elements.

Based on review and analysis of all applicable DS waiver regulations, Virginia acknowledges that the current regulations do *not* fully support the new CMS HCBS Final Rule settings requirements. A review indicates that the following characteristics are not present in all settings:

- Required processes for modifications in the event that there are individual-specific restrictions.
- Individual services are received in the community with the same degree of access as individuals not receiving Medicaid home and community-based services.
- Services are able to be selected by the individual from among setting options, including non-disability specific settings.
- Services are integrated in and support access to the greater community
- Services provide the opportunity to seek employment, work in a competitive integrated setting, and fully engage in community life.

Further, DMAS DS waiver regulations will require revision to place a greater emphasis on ensuring that individuals receiving HCBS services have the same degree of access to an integrated community life as individuals not receiving Medicaid HCBS. Needed revisions to regulations will help to ensure that all HCBS, including day services, are integrated and meet settings requirements.

C. A chart detailing assessment activities, progress and status begins below.

Task(s)	Description of Tasks	Assessment Methods	End Date	Responsible Parties	Progress / Status
Site Landscape Assessment	Evaluate the types of services being provided to individuals through the DD waiver, and in what types of settings throughout the state. Also evaluate the types of providers rendering services through the waiver.	Consult with DD Waiver Staff, Review of Licensing & QMR reports, provider self-assessment	1/2015	DBHDS, DD Waiver Staff, DMAS Waiver Operations Staff	DD waiver staff identified that services are offered for individual waiver participants in their own or family home. There is no provider owned or operated component to services provided in an individual's own home. Provider type has been identified as Home Care agencies and in-home residential services providers. Pre-Vocational services are center-based services. Day support services are center-based services. Group Supported Employment services are provided in integrated

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Task(s)	Description of Tasks	Assessment Methods	End Date	Responsible Parties	Progress / Status
					community work settings.
Settings Requirements Compliance Assessment	Assess sites statewide providing HCBS services to individuals in DD waiver as compliant, partially compliant, or non-compliant.	Consult with DD Waiver Staff, Review of Licensing & QMR reports, provider self-assessment	3/2016	DBHDS, DD Waiver Staff, DMAS Waiver Operations Staff	<p>The settings assessment concluded that services provided through this waiver within the individual's home are fully compliant.</p> <p>Group Supported Employment, Pre-vocational and Day Support services are delivered in settings which are fully compliant; mostly compliant, but could be fully compliant with modifications; and, not compliant, but could be fully compliant with modifications.</p>
Setting Characteristics Assessment	Assess sites statewide providing HCBS to individuals in the DD waiver as either Home and Community Based, Institutional, or Presumed Institutional	Consult with DD Waiver Staff, Review of Licensing & QMR reports, provider self-assessment	3/2016	DBHDS, DD Waiver Staff, DMAS Waiver Operations Staff	<p>DD waiver services (other than day or employment related services) are not provided in a provider owned or operated setting, a segregated institutional setting or a setting with the characteristics of an institutional setting. The settings are already Home and Community Based.</p> <p>Group Supported Employment, Pre-vocational and Day Support services are delivered in settings which are fully compliant, not compliant and mostly compliant, but could be fully compliant with modifications.</p>
Waiver Regulations and Policy Assessment	Review and crosswalk waiver regulations, licensing of providers for the waiver, provider manuals and policy with the settings requirements	Review DBHDS, DMAS and other agency regulations governing the waiver (licensing of providers for	1/15/2015	DBHDS, DD waiver Staff, DMAS Waiver Operations Staff	DD Waiver regulations & licensure and related policies generally, but not fully, support the final rule setting requirements. More specific language could be incorporated into regulation and policy to strengthen the expectation of

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Task(s)	Description of Tasks	Assessment Methods	End Date	Responsible Parties	Progress / Status
		the waiver).			compliance with the settings requirements.

D. Remediation Actions

Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item	Description	Dates	Responsible Parties/ Stakeholders	Outcome
Regulatory and Policy Updates	<ul style="list-style-type: none"> • Submit DD Waiver amendments • Develop emergency licensure regulations based on qualitative and quantitative regulatory and policy assessments • Implement regulatory and policy changes to better align with HCBS settings requirements. 	<ul style="list-style-type: none"> • Spring 2015 • 9/2015 	DBHDS, DMAS	Regulations and Policies in full support and alignment with the Final Rule's settings requirements
Provider Manual Changes	<ul style="list-style-type: none"> • Update provider manuals to supplement regulations to ensure that providers have the information and instruction needed to implement setting requirements, inclusive of those services/settings not licensed by DBHDS such as group supported employment, in addition to following what is already existent in current DBHDS and DMAS regulations. 	<ul style="list-style-type: none"> • January 2016 	DBHDS, DMAS	Instructive Provider Manual providing guidance on settings requirements
Outreach, Education & Training	<ul style="list-style-type: none"> • Design, develop and implement an education and training plan incorporating the HCBS final rule and Virginia's Statewide 	<ul style="list-style-type: none"> • Training to begin 10/2015-2/2016 in anticipation 	<ul style="list-style-type: none"> • DBHDS Provider Development Staff (CRCs) • Provider 	Resources, training and education materials reflecting settings requirements and the final rule.

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Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item	Description	Dates	Responsible Parties/ Stakeholders	Outcome
	Transition Plan into training and education materials for providers, individuals and families, professionals and other stakeholders and interested parties.	of the start of the Building Independence Waiver in 1/2016. • Additional training will be ongoing	Forums • TACIDD	
Compliance Monitoring	<ul style="list-style-type: none"> • Site visits and inspections of provider settings for monitoring of requirements and delivery of technical assistance • DD waiver representative will participate on a multi-agency/department compliance monitoring team. 	<ul style="list-style-type: none"> • 3/2015-4/2016 • 6/2015 and ongoing 	<ul style="list-style-type: none"> • DBHDS Licensing staff • DMAS QMR Staff • Compliance and Monitoring Team 	<ul style="list-style-type: none"> • Compliance • Multi-Agency development of SME's and consistent implementation and oversight of compliance with rule and Transition Plan milestones
Provider Enrollment	<ul style="list-style-type: none"> • Design and implement a plan for incorporating necessary training and education into provider enrollment, orientation and provider employee training. 	<ul style="list-style-type: none"> • Completed by 3/2016 • Ongoing 	<ul style="list-style-type: none"> • DMAS, QMR and Provider Enrollment staff, 	Educated providers and assurance of compliance upon enrollment
Provider Sanctions	<ul style="list-style-type: none"> • Letters distributed to provider agencies noting non-compliance/potential disenrollment • Transition of individuals served by disenrolled providers to alternate settings • Provider Disenrollment 	<ul style="list-style-type: none"> • 6/2018 • 7/2018 • 3/2019 	DBHDS staff DMAS QMR Staff	All settings will be in full compliance

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APPENDIX F: INTELLECTUAL DISABILITY WAIVER

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INTRODUCTION

The Virginia Department of Medical Assistance Services (DMAS), the state Medicaid authority, and Department of Behavioral Health and Developmental Services (DBHDS), the operating agency for the Intellectual Disability (ID) waiver, have worked together to develop this Transition Plan as a means of outlining current status and needed actions to bring the ID waiver services and providers into compliance with CMS's Final Rule by March of 2019. This plan includes assessments and proposed actions for both agencies, as well as all affected providers.

Many activities occurring in the state as part of the I/DD system transformation will impact this transition plan, however, they are mentioned here only for context. The focus of this transition plan is on the CMS HCBS settings requirements only. Additionally, elements of the CMS final rule which are not directly related to the settings requirements are likewise not addressed in this document.

Virginia's ID waiver transition plan includes the following information:

- A. Assessment of characteristics of ID waiver settings across the state
- B. Assessment of ID waiver regulations, licensing regulations and related policies
- C. Technical assistance & compliance monitoring
- D. Public/Stakeholder engagement
- E. Assessment activities chart
- F. Remediation actions

ASSESSMENT

DBHDS and DMAS are working with provider organizations, individuals receiving ID waiver services and their families and allies, stakeholders and advocacy organizations and other state and local entities to collect the data and information needed to assess Virginia's current compliance with HCBS Final Rule settings requirements. The assessment process includes a review of ID waiver regulations, related DBHDS regulations including licensure regulations, policies and procedures, provider self-assessment, and site specific assessments.

Virginia is currently in the assessment phase with an anticipated end date of April, 2015. Virginia has completed an initial review of rules, regulations, policies and procedures, developed a provider self-assessment tool, developed a settings analysis tool for Licensure and fact sheets and guidance documents for Quality Management Reviews, and will obtain information about the experience of individuals and families from the National Core Indicators' survey.

Virginia is intent on fully meeting CMS Transition Plan expectations through its comprehensive assessment of compliance status of current settings, robust and meaningful remediation strategies and transparent and interactive public comment and stakeholder involvement. Virginia's current ID waiver system is experiencing significant transition in response to a Department of Justice Settlement Agreement. An extended assessment timeframe will enable Virginia to conduct its comprehensive assessment and align remediation strategies with new service definitions, rules, regulations, policy and systems re-design.

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Appendix F: Intellectual Disability Waiver

A. Assessment of characteristics of ID waiver settings across the state

DBHDS conducted an internal assessment, through the Office of Licensing, of the characteristics of currently enrolled provider settings. The settings present in the delivery of ID waiver services and a preliminary status of compliance is provided below. Additional assessment is needed to determine the number of setting that fully comply, do not comply but will with modifications, do not and cannot comply, and settings that require heightened scrutiny.

Waiver Service & Type of Setting	Preliminary Status
Residential Support	
<ul style="list-style-type: none"> Group Homes 	<p>It has been determined that there are both settings that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority of settings into compliance.</p> <p>Additional analysis is needed to determine if there are settings that do not and cannot comply and settings that will require heightened scrutiny.</p>
<ul style="list-style-type: none"> Sponsored Homes (similar to a "host home" model) 	<p>It has been determined that there are both settings that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority/all settings into compliance.</p>
<ul style="list-style-type: none"> Supervised Apartments 	<p>It has been determined that there are both settings that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority/all settings into compliance.</p>
<ul style="list-style-type: none"> Family Homes 	<p>All ID waiver services provided in family home settings are fully compliant with the settings requirements, these homes are private residences that an individual owns, leases or resides with family. Each setting is integrated with full access to the community, is chosen by the individual, ensures an individual's right to privacy, dignity, respect, and freedom from coercion and restraint, optimizes individual initiative, and facilitates individual choice.</p>
Day Support	
<ul style="list-style-type: none"> Day Support 	<p>It has been determined that there are both settings that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority/all settings into compliance.</p>
Prevocational	
<ul style="list-style-type: none"> Day Support 	<p>It has been determined that there are both settings that</p>

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	fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority/all settings into compliance.
Group Supported Employment	
<ul style="list-style-type: none"> Community-based work crew or enclave 	It has been determined that there are both settings that fully comply with the requirements and settings that do not comply and will require modifications. It is expected that remediation strategies will bring the majority/all settings into compliance.

DBHDS has developed a settings checklist that was be distributed to all DBHDS-licensed providers of ID waiver residential and day support services, as well as ID waiver providers of group supported employment. The checklist was accompanied by an overview of the CMS Final Rule, including a link to the CMS toolkit website, and guidance information to assist the provider with understanding the intent of the requirements being evaluated in order to accurately complete of the checklist. The checklist is designed to help providers determine areas in which their setting(s) meet or require improvement in order to comply with the settings provision of the Final Rule. This checklist and accompanying guidance document incorporate all of the elements pertinent to settings, elements of the "Guidance on Settings that Have the Effect of Isolating Individuals Receiving HCBS from the Broader Community," as well as referring providers to the questions in the "Exploratory Questions to Assist States in Assessment of Residential Settings." Providers were instructed to complete this checklist by January 31, 2015. A summary report of the results of the provider self-assessment will be available for review by April 1, 2015.

Concurrent with receipt of the checklist, providers were instructed to provide feedback to DBHDS and DMAS regarding their self-assessment of their site(s). This was accomplished through responses to questions via Survey Monkey due by January 31, 2015. This self-assessment survey required each provider to indicate whether the provider believes the setting meets setting requirements and the intent of The Rule; whether modifications will be required in order to comply; or whether the setting does not and cannot meet requirements. In addition, there was an option to request technical assistance from DBHDS staff.

After completion and submission of the Survey Monkey provider self-assessment, providers will be mailed a letter reiterating the Office of Licensing monitoring activities and Quality Management Review (QMR) technical assistance that will take place between March 2015 and April 2016. The monitoring activities will help to ensure the provider self-assessment is accurate and settings do fully comply. The letter will also inform providers of contact information to receive guidance and technical assistance to assist with coming into compliance. A process and protocol for follow up self-assessments will be developed and implemented by September 2015. The purpose of follow-up self-assessments is to assist with monitoring providers' progress with coming into compliance and the need for technical assistance.

If the provider does not respond to the survey, a follow-up letter will be sent by 2/27/15 advising the provider of the request to complete and submit the survey, the potential remediation actions that will be taken by the Office of Licensing upon promulgation of new regulations, and the potential disenrollment of providers whose settings do not comply with the CMS HCBS Final Rule settings requirements by March 2019.

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B. Assessment of ID waiver regulations, licensing regulations and related policies

Based on review and analysis of ID waiver regulations, Virginia acknowledges that the current regulations do not fully support the new CMS HCBS Final Rule settings requirements. A review indicates that the following elements are not present:

- Reference to options for a private unit in a residential setting.
- The expectation that a lease, residency agreement or other written agreement is in place to provide the individual protections from eviction.
- An emphasis on privacy in individuals' sleeping/living units, including lockable entrance doors and choice of roommates in shared units.
- Freedom and support to control their schedules and activities.
- Access to food and visitors at any time.
- Required processes for modifications in the event that there are individual-specific restrictions.

DMAS ID waiver regulations will require revision to place a greater emphasis on ensuring that individuals receiving HCBS have the same degree of access to an integrated community life as individuals not receiving Medicaid HCBS. Needed revisions to regulations will help to ensure that all HCBS, including day services, are integrated and meet settings requirements.

Most settings impacted by the Final Rule (particularly those settings involving provider-owned or controlled residential settings) are licensed by DBHDS. The DBHDS has reviewed and assessed its Licensing regulations. Changes to the regulations have been proposed in order to implement additional provider requirements to comport with the Final Rule. The review indicated that the following elements are not present in the current regulations:

- The expectation that a lease, residency agreement or other written agreement is in place to provide the individual protections from eviction.
- The expectation of privacy in individuals' sleeping/living units, including lockable entrance doors and choice of roommates in shared units.
- Access to food and visitors at any time.
- The expectation that individuals have freedom and support to control their schedules and activities.
- Required processes for modifications in the event that there are individual-specific restrictions.

The review of DBHDS Licensing regulations is occurring with an internal (DBHDS) process of review and proposal of edits and changes. This effort will be expanded to incorporate ongoing input from a stakeholder workgroup (comprised of representatives of other state agencies, providers, Community Services Boards, advocacy organizations and individuals/family members). DBHDS, through its internal workgroup and with stakeholder input, will ensure integration of all related agency regulations to eliminate inconsistencies, subjectivity, and conflicts in interpretation and application. The following chart details the proposed timeline beyond the assessment phase and incorporates remediation actions inclusive of the state regulatory process.

Timeline for DBHDS Licensing Regulations Revisions		
Stakeholder Involvement:		
• Identify stakeholders for work group	3 weeks	1/5/15 – 1/23/15

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membership		
<ul style="list-style-type: none"> Review DBHDS assessment and recommendations for licensing regulation changes 	6 months	2/2/15 – 7/31/15
DBHDS final revisions and approval	1 – 2 months	8/3/15 – 9/30/15
Review by Office of Attorney General	1 – 5 months	10/1/15 – 2/29/16
Submission for Virginia Standard Regulatory Review & Approval process	6 – 12 months	3/1/16 – 2/28/17
Promulgation and training of providers	4 – 6 months	3/1/17 – 9/1/17
Total Time (includes assessment activities from previous chart)	Approx. 36 months	

New waiver amendments will be submitted to CMS in the spring of 2015. These amendments will be reviewed by CMS, state Medicaid regulations necessary for their implementation, as well as subsequent policy manuals, will be developed and made ready for implementation. These will include all new Final Rule settings requirements, inclusive of those services/settings not licensed by DBHDS (such as group supported employment). The process for regulatory promulgation and final acceptance involves stakeholder comments and can take several years; however, plans are to request the authority to issue Emergency Regulations, with the intention of their taking effect by the end of 2015, so that implementation can begin early in 2016 (see timeline at the end of this document).

Additionally, all providers licensed by DBHDS must comply with DBHDS Office of Human Rights regulations. DBHDS completed a cross-walk assessment of its current Human Rights regulations to the Final Rule in the spring of 2014. The current Human Rights regulations were found to be consistent with and supportive of the Final Rule elements.

C. Technical Assistance & Compliance Monitoring

DBHDS staff have begun to reach out to providers, support coordinators/case managers and advocacy organizations to inform them of the Final Rule requirements. Presentations were made at two large stakeholder forums in the spring of 2014. Additionally, two webinars were held in August 2014 to educate providers on the requirements of the HCBS Final Rule. It is the Department's intent that through regularly scheduled forums such as meetings of The Advisory Consortium on Intellectual and Developmental Disabilities (TACIDD: a broad-based stakeholder group), DBHDS newsletters, DMAS communications, quarterly provider roundtables, and support coordination and waiver provider trainings, the Commonwealth will continue to educate providers about the need to comply with and the nuances of the Final Rule.

Training targeted to those issues identified through the provider self- assessments will be delivered beginning in October of 2015 and will continue through February of 2015 in preparation for the start of the Building Independence waiver, which is scheduled for January 2016. Additional training and technical assistance will be ongoing throughout the transition period.

DBHDS Licensing Specialists, Human Rights Advocates, Community Resource Consultants, Community Integration Managers, Community Services Board support coordinators/case managers, and DMAS Quality Management Review staff have frequent entrées to provider settings as they conduct

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inspections, provide technical assistance and engage in monitoring of individuals receiving waiver services. Ensuring consistency of interpretation and application of settings requirements will greatly improve the process of supporting providers with compliance. To assist with this goal there will be broad representation of the above entities on a multi-agency, provider and stakeholder Compliance & Monitoring Team charged with the following:

The compliance & monitoring team will be convened by June 2015 to:

- Develop cross agency subject matter expertise on the final rule and the transition plan;
- Ensure a collective understanding and consistent interpretation of requirements, transition plan milestones and guidance documents;
- Advise and support the education and training of professionals, providers and stakeholders;
- Ensure a cohesive and broadly represented approach toward compliance, monitoring and capacity issues; and,
- Ensure successful achievement of desired outcomes and full compliance with the HCBS final rule settings requirements by March of 2019.

The development of compliance & monitoring team represents the state's intention to oversee, support and monitor full compliance with the settings requirements of the HCBS final rule. The team will be empowered to:

- Provide technical assistance on the final rule including documentation for exceptions;
- Review and comment on developed materials and resources;
- Provide recommendations and assist with the development of solutions and implementation of strategies aimed at achieving desired outcomes;
- Oversee development and implementation of a communications strategy for providers, individuals and families; and,
- Report to state leadership on the status of compliance.

Additional details about this team can be found on page 6 of the statewide transition plan: Compliance & Monitoring.

DBHDS and DMAS staff will review with providers their completed the self-assessment and provide suggestions and technical assistance to remedy areas in need of improvement in relation to the settings requirements, as outlined in the Final Rule. DBHDS Community Resource Consultants (regionally-based technical assistance and training staff) will also review the Survey Monkey self-assessments of providers in their region. There will be ongoing and available resource for providers, offering technical assistance, education and training related to complying with implementing the settings provisions of the Final Rule. Oversight and technical assistance between Office of Licensing staff, Community Resource Consultants as well as DMAS QMR staff will be coordinated.

- DBHDS Community Resource Consultants will be available to provide consultation to those providers that wish to comply, but are struggling with implementation.
- DMAS Long-Term Care Quality Management Review (QMR) staff will provide additional technical assistance and guidance to providers. QMR staff will provide technical assistance and guidance related to ensuring that the setting as a whole is complying and that the quality of Medicaid waiver participants' experiences with receipt of services are comparable to those not receiving Medicaid funded HCBS. This will occur primarily through review of provider records for

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waiver participants and documentation to support any individually assessed restrictions that may be in place per the individual's person-centered service plan.

- Office of Licensing staff will be able to assess and ensure that the provider implements and complies with the settings requirements also offering technical assistance, guidance and resources.

Beginning in March 2015, as DBHDS Office of Licensing staff conduct their routine visits, and as part of license renewals, they will provide technical assistance on current and future compliance with the settings provisions of the Final Rule. Additionally, the settings checklist that providers were required to complete and maintain on-site will, in coordination with the settings analysis tool developed for compliance monitoring, be incorporated into Office of Licensing staff's routine inspection items to monitor and ensure ongoing compliance.

Furthermore, DBHDS will advise providers that, beginning in March of 2015, Office of Licensing staff will visit each provider entity, as part of their license renewal, and determine the provider's ability for full compliance with the settings requirements. This activity will be completed for all DBHDS-licensed providers by April 2016. Those that do not demonstrate full compliance will be provided with technical assistance and guidance on actions to take to come into compliance.

Providers not currently meeting the settings requirements will be asked to regularly report on the status of their compliance with the requirements through the completion of follow-up self-assessments. Those provider agencies that do not comply by June of 2018 will receive a letter notifying them that they will likely forfeit their Medicaid Waiver provider status and be disenrolled by March of 2019. Providers will then have several choices. Providers may exercise the option to voluntarily terminate their Medicaid provider agreements. Providers whose self-assessment reveals issues that are not resolvable, may choose to relocate to settings that will enable them to more easily comply.

In such instances, support coordinators/case managers working with individuals whose providers status is anticipated to change, will notify individuals receiving services and their families, as appropriate, of the provider's status and anticipated disenrollment/relocation date. The case manager and or support coordinator will work with the provider, individual, and family as appropriate, to ensure smooth transition to a setting that complies with the Final Rule. For providers who wish to maintain their Medicaid agreements, DBHDS will make every effort to assist them in coming into full compliance with the final rule, with mandatory disenrollment as an action of last resort.

Support coordinators/case managers for individuals receiving supports in those settings will begin to work with the individuals needing to transition to alternate settings in July of 2018. Support coordinators/case managers will ensure a person-centered process and informed choice of alternate providers and locations for persons who wish to continue to receive waiver services. The process will include the following:

- Individuals will be provided with reasonable notice of the need to transition and choose another setting.
- Individuals will be actively engaged and involved in the development of their person-centered transition/relocation plan to include a relocation timeline and information and supports to make an informed choice for an alternate setting that complies with the settings requirements.
- Transition activities and assurances that services and supports are planned for and will be in place when an individual transitions.

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As the new regulations are promulgated, Virginia will develop and operationalize procedures to validate conformance with settings requirements into existing processes for provider enrollment and licensing. The developed and implemented changes will be designed to ensure that, as new providers enroll and are licensed, they fully meet the settings requirements. Efforts occurring within the state to increase provider capacity, although not part of this Transition Plan, will continue throughout the transition period.

D. Public/Stakeholder Engagement

The ID Waiver Transition Plan and waiver amendment was released for public comment for 30 days, from December 18, 2014 – January 17, 2015. The public input process was been designed to allow individuals receiving waiver services, individuals likely to receive services, providers, stakeholders and advocacy and other organizations an opportunity to provide input and recommendations into the plan. All public comments and dates of public notice for the ID waiver transition plan will be retained on record and available for review.

Opportunities for public comment will continue at various stages throughout this Transition Plan. Virginia will seek public comment through the DBHDS "My Life, My Community" webpage, DMAS and other specific state agency websites, print articles in newsletters disseminated by advocacy groups and trade organizations, electronic newsletters, list serves, social media and a print advertisement placed in a large Virginia newspaper carried in libraries throughout Virginia.

An email address, physical address, and fax number are available for individuals, family members, and other advocates to comment on the transition plan. A telephone voice mail line is also available for confidential reporting on provider segregated settings or segregated conduct. Provider identification will be necessary so that DBHDS and DMAS can target those providers for training or technical assistance.

Previous public engagement and stakeholder involvement activities resulted in public input, recommendations and guidance that have been considered and incorporated into this plan, as appropriate. A summary of additional activities follows:

- A presentation about the Final Rule was made at the 6/20/14 meeting of The Advisory Consortium on Intellectual and Developmental Disabilities, at which approximately 80 stakeholders (representing CSBs, private providers, family members, individuals, advocacy organizations and other state agency staff) were present. Input was gathered following the presentation.
- A preliminary draft Transition Plan was posted on the DBHDS website on August 5, 2014 [<http://www.dbhds.virginia.gov/individuals-and-families/developmental-disabilities>]. Comments were received via an accompanying email address for 30 days, ending September 6, 2014. Notification of this posting was sent to representatives of Community Services Boards, private provider associations, and advocacy groups, who were requested to distribute the information widely to their members and constituents. This posting did not serve as Virginia's formal notice of public input; however, information and comments gleaned from input on the posted draft and stakeholder/provider engagement activities did inform the development of this plan.

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- Statewide "town hall style" webinars, sponsored by DMAS and DBHDS staff, were held on August 12, 2014 and August 26th (two separate webinars were held on that day) regarding the Final Rule elements and the Virginia draft Transition Plan, during which questions and input were also received from participants. These webinars were announced in the preliminary draft Transition Plan posted on the DBHDS website and via emails to representatives of Community Services Boards, private provider associations, advocacy groups, and other state agencies, which were requested to distribute the information widely to their members and constituents. In total, these three webinars accommodated the participation of approximately 300 individuals.

E. Assessment activities chart

Task(s)	Description of Tasks	Assessment Methods	End Date	Responsible Parties	Progress / Status
Site Landscape Assessment	Evaluate the types of services being provided to individuals through the ID waiver, and in what types of settings throughout the state. Also evaluate the types of providers rendering services through the waiver.	Consult with ID Waiver Staff, Review of Licensing & QMR reports, provider self-assessment	4/2015	DBHDS, DD Waiver Staff, DMAS Waiver Operations Staff	<p>ID waiver staff identified that services are offered for individual waiver participants in their own or family home, provider owned and operated settings, and non-residential center and community based settings.</p> <p>Provider types have been identified as licensed and non-licensed service providers. Providers include congregate residential, in-home service providers, Home Care agencies, and center and non-center based pre-vocational, day support, and group supported employment service providers.</p> <p>Additional detail on the outcomes of this assessment can be found in the chart on page 48.</p>
Settings Requirements Compliance Assessment	Assess sites statewide providing HCBS services to individuals in DD waiver as compliant, partially compliant, or non-compliant.	Consult with DD Waiver Staff, Review of Licensing & QMR reports, provider self-assessment	4/2015	DBHDS, DD Waiver Staff, DMAS Waiver Operations Staff	<p>The settings requirements assessment concluded that services provided through this waiver within the individual's home are fully compliant.</p> <p>Provider owned and operated settings are fully compliant; mostly compliant, but could be fully compliant with modifications; and, not compliant, but could be fully compliant with modifications.</p>

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Task(s)	Description of Tasks	Assessment Methods	End Date	Responsible Parties	Progress / Status
					<p>Group supported employment, pre-vocational and day support services are delivered in settings which are fully compliant; mostly compliant, but could be fully compliant with modifications; and, not compliant, but could be fully compliant with modifications.</p> <p>Additional detail on the outcomes of this assessment can be found in the chart on page 48.</p> <p>Additional assessment and analysis of provider self-assessments is needed to determine which and how many providers fall in which compliance categories.</p>
Setting Characteristics Assessment	Assess sites statewide providing HCBS to individuals in the ID waiver as either Home and Community Based, Institutional, or Presumed Institutional	Consult with ID Waiver Staff, Review of Licensing & QMR reports, provider self-assessment	4/2015	DBHDS, ID Waiver Staff, DMAS Waiver Operations Staff	<p>ID waiver services provided in provider owned or operated setting and center based settings have characteristics that are fully compliant; mostly compliant, but could be fully compliant with modifications; and, not compliant, but could be fully compliant with modifications.</p> <p>Additional assessment and analysis of provider self-assessments is needed to determine which and how many providers fall in which compliance categories.</p>
Waiver Regulations and Policy Assessment	Review and crosswalk waiver regulations, licensing of providers for the waiver, provider manuals and policy with the settings requirements	Review DBHDS, DMAS & other agency regs. governing the waiver (licensing of providers for the waiver).	1/15/2015	DBHDS, ID waiver Staff, DMAS Waiver Operations Staff	ID Waiver regulations & licensure and related policies generally, but not fully, support the final rule setting requirements. More specific language could be incorporated into regulation and policy to strengthen the expectation of compliance with the settings requirements.

F. Remediation actions

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Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item	Description	Dates	Responsible Parties/ Stakeholders	Outcome
Regulatory and Policy Updates	<ul style="list-style-type: none"> • Submit ID Waiver amendments • Develop emergency licensure regulations based on qualitative and quantitative regulatory and policy assessments • Implement regulatory and policy changes to better align with HCBS settings requirements. 	<ul style="list-style-type: none"> • Spring/2015 • 11/2015 	DBHDS, DMAS	Regulations and Policies in full support and alignment with the Final Rule's settings requirements
Licensing Regulation Revisions	<ul style="list-style-type: none"> • Submission for Virginia Standard Regulatory Review & Approval process • See chart on page 50 and 51 detailing milestones. 	<ul style="list-style-type: none"> • 2/2017 • 1/2015 – 9/2017 		
Provider Manual Changes	<ul style="list-style-type: none"> • Update provider manuals to supplement regulations to ensure that providers have the information and instruction needed to implement setting requirements, inclusive of those services/settings not licensed by DBHDS such as group supported employment, in addition to following what is already existent in current DBHDS and DMAS regulations. 	<ul style="list-style-type: none"> • 1/2016 		Instructive Provider Manual providing guidance on settings requirements
Outreach, Education & Training	<ul style="list-style-type: none"> • Design, develop and implement an education and training plan incorporating the HCBS final rule and Virginia's Statewide Transition Plan into training and education materials for providers, individuals and families, 	<ul style="list-style-type: none"> • Training to begin 10/2015-2/2016 in anticipation of the start of the Building Independence Waiver in 1/2016. 	<ul style="list-style-type: none"> • DBHDS Provider Development Staff (CRCs) • Provider Forums • TACIDD 	Resources, training and education materials reflecting settings requirements and the final rule.

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Remediation Action: Virginia proposes the actions below to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and outcomes.

Action Item		Description	Dates	Responsible Parties/ Stakeholders	Outcome
		professionals and other stakeholders and interested parties.	<ul style="list-style-type: none"> Additional training will be ongoing 		
Compliance Monitoring		<ul style="list-style-type: none"> Site visits and inspections of provider settings for monitoring of requirements and delivery of technical assistance DD waiver representative will participate on a multi-agency/department compliance monitoring team. 	<ul style="list-style-type: none"> 3/2015-4/2016 6/2015 and ongoing 	<ul style="list-style-type: none"> DBHDS Licensing staff DMAS QMR Staff Compliance and Monitoring Team 	<ul style="list-style-type: none"> Compliance Multi-Agency development of SME's and consistent implementation and oversight of compliance with rule and Transition Plan milestones
Provider Enrollment		<ul style="list-style-type: none"> Design and implement a plan for incorporating necessary training and education into provider enrollment, orientation and provider employee training. 	<ul style="list-style-type: none"> Completed by 3/2016 Ongoing 	<ul style="list-style-type: none"> DMAS, QMR and Provider Enrollment staff, 	<ul style="list-style-type: none"> Educated providers and assurance of compliance upon enrollment
Provider Sanctions		<ul style="list-style-type: none"> Letters distributed to provider agencies noting non-compliance/potential disenrollment Transition of individuals served by disenrolled providers to alternate settings Provider Disenrollment 	<ul style="list-style-type: none"> 6/2018 7/2018 3/2019 	DBHDS staff DMAS QMR Staff	All settings will be in full compliance

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Appendix G: Statewide Transition Plan Timeline

Statewide Transition Plan Timeline

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